IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

Crl.Rev.Pet.No. 2921 of 2007()

AGAINST THE ORDER DATED 26/06/2007 IN CMP.2534/2007 IN CC.575/2005 of JUDL.MAGISTRATE OF FIRST CLASS, NADAPURAM

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REVN. PETITIONER: ACCUSED

RAJESH NAMBOOTHIRI,
S/O MADHAVAN NAMBOOTHIRI,
KUNNAMANGALATH ILLOM,
NEAR KOOVAKKAT TEMPLE,
KALLACHI.

BY ADV. SRI.A.KRISHNAN

RESPONDENTS: PETITIONER

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1. SREEDEVI ANTHARJANAM,
W/O BALAKRISHNAN NAMBOOTHIRI,
KAKKATTE CHERIA ILLOM, ERAMNA,
ERAMANA, ORKKATTERIL.

2. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 14/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 2921 OF 2007 A

Dated this the 14th day of August, 2007

O R D E R

The revision petitioner, who is the husband of Deepa, the daughter of the 1st respondent Sreedevi Antharjanam, challenges the order dated 26.6.2007 passed by the JFCM, Nadapuram allowing CMP No.2534/07 filed by the 1st respondent herein seeking further investigation under section 173(8) Cr.P.C.

2. The marriage between the revision petitioner(Rajesh Namboothiri) and Deepa was solemnised on 30.8.1999. A child also was born in that wedlock. Both of them were residing in the residential house of Deepa. She died on 21.3.2005 at 9 p.m. due to poison. According to the revision petitioner, she had committed suicide by consuming poison. The 1st respondent herein would allege that it was a case of forcible administration of poison to Deepa by the revision petitioner, who used to physically and mentally torture her with demands for dowry.

3. The case was originally registered as Crime No.113/05 of Vadakara Police Station for an offence punishable under section 498A IPC. After the filing of the final report, the Magistrate

took cognizance of the offence and registered the case as C.C.No.575/05. After the examination of PWs 1 to 3, the 1st respondent herein filed the above CMP alleging, inter alia, that her daughter Deepa was subjected to cruelty by the revision petitioner, who had forcibly administered poison to her and that besides 498A IPC, the revision petitioner has committed offences punishable under sections 304B and 306 IPC as well.

4. After hearing both sides, the court below allowed the said petition filed by the 1st respondent herein.

5. The learned counsel appearing for the revision petitioner made the following submissions before me in support of the revision:-

The police had conducted a meticulous and detailed investigation during which the only offence which was, prima facie, made out was one punishable under section 498A IPC and the court below has not applied its mind to the facts and circumstances of the case and no case has been made out for further investigation under section 173(8) Cr.P.C.

6. I am afraid that I cannot agree with the above submissions. Even according to the revision petitioner, the

original suicide note, which his wife had written before her death and which was produced by him before the police, has not been seized by the police or produced before court, but instead, what has been produced by the police is only a photocopy of the diary report dated 17.3.2005 alleged to be the suicide note of the deceased. The post mortem report pertaining to Deepa only shows that she died of poison. There was an ante mortem, superficial incised wound 2.5 cm long seen on the frontal aspect of the left wrist of the deceased and the circumstances under which the deceased sustained the said injury has not been elicited in investigation thus far conducted by the police. Similarly, there are records to show that Deepa breathed her last not from the house where she was residing but from the Medical College Hospital, Kozhikode before which she had been rushed to the Kallachi Hospital. The investigation does not show whether on the way to hospital she had made any statement to any person regarding the cause of her death or the circumstances under which she came to consume poison. Similarly, there was no satisfactory investigation conducted with regard to the headache which she was allegedly suffering from. These are the grounds which, prima facie,

influenced the court below to order further investigation. In the light of the decision in ***Shaji Vs. State of Kerala*** [2003 (2) KLT 929], there cannot be any conceivable objection from the side of the petitioner against further investigation by the police. If there are shreds of undiscovered and undetected evidence which would unravel the truth leading to the premature death of Deepa at the young age of 25 years, the petitioner cannot fight shy to such materials being unearthed by the investigating agency. I see no reason to interfere with the order passed by the court below. Whatever observations made and conclusions reached by the court below as well as by this court are only prima facie observations which will have no influence during the trial of the case.

This revision is accordingly dismissed.

(V. RAMKUMAR, JUDGE)

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